UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN

COMERICA BANK Case No. 24-cv-12167

Plaintiff

HON:

VS.

MAG.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION JUDGE:

Defendant

COMPLAINT

Plaintiff Comerica Bank ("Comerica") complains against defendant JPMorgan Chase Bank, National Association ("Chase Bank") as follows:

PARTIES – JURISDICTION – VENUE

- 1. This action for money damages in the amount of \$147,985.67 arises out of various check transactions in which Chase Bank breached its Uniform Commercial Code ("UCC") warranties in the presentment of checks (sometimes "Disputed Check(s)" or "item" in this pleading) to Comerica.
- 2. This district court has subject matter jurisdiction by operation of 28 USC 1332(a)(1) because the amount in controversy (exclusive of costs, interest, and attorney fees) exceeds \$75,000.00 and diversity of citizenship exists:
 - a. Plaintiff Comerica is a Texas banking association organized and existing under Texas law with its principal place of business in Texas.
 - b. Defendant Chase Bank is a national banking association organized and existing under the laws of the United States with its home office in Ohio (*see* 28 USC 1348).
- 3. Venue is proper in this district court because the action arose at Comerica's Operations Center located in this judicial district where Chase Bank presented each of the Disputed Checks for payment. Chase Bank also conducts business in this judicial district.

GENERAL ALLEGATIONS

- 4. Comerica processes checks drawn on its customer's accounts, including the Disputed Checks, at its facilities located in this judicial district.
- 5. Complaint exhibits 1 through 10 are redacted images of the Disputed Checks summarized as follows:

EX	DRAWER	CK#	POSTED	AMOUNT
1	Public School Academies	16504	05/09/2023	\$40,632.65
2	Public School Academies	9694	05/09/2023	\$28,566.83
3	Michael L. Vis	1712	09/05/2023	\$1,015.00
4	Texas Pride Disposal	10339	07/23/2023	\$23,757.14
5	Grand Texas Homes GP	27348	10/25/2022	\$12,417.82
6	Noella I Russo Trust	6968	05/22/2023	\$11,089.23
7	Westridge Mobile Home Park	2936	03/27/2023	\$22,382.00
8	Mark L. Rowe	8975	04/11/2023	\$4,200.00
9	Po Ai	4043	03/20/2023	\$2,800.00
10	Jeanette Marie Ciancia	112	08/23/2023	\$1,125.00

- Chase Bank accepted each Disputed Check for deposit and collection from Comerica.
- 7. Chase Bank presented an electronic image of each Disputed Check to Comerica for payment.
- 8. By operation of law, Chase Bank warranted to Comerica that Chase Bank was entitled to enforce each Disputed Check or was authorized to obtain payment on behalf of one who was entitled to enforce each Disputed Check; and, the Disputed Checks were not altered. UCC 4-208(a); 3-417(a).

- 9. For each Disputed Check, Comerica paid Chase Bank in good faith and debited a like amount from the relevant Comerica account.
- 10. Comerica later learned that none of the Disputed Checks was properly chargeable against the relevant Comerica account.
- 11. Chase Bank breached its warranties and damaged Comerica with respect to each Disputed Check transaction identified in the complaint exhibits.
- 12. Comerica is entitled to damages from Chase Bank in the amount of the Disputed Checks, or \$147,985.67, plus interest and compensation for expenses of litigation, including but not limited to attorney fees. UCC 4-208; 3-417.

COUNT I (Exhibits 1-5)

- 13. The General Allegations are incorporated by reference into this count.
- 14. This count relates to the Disputed Checks in complaint exhibits 1 through 5.
- 15. In each instance, Chase Bank's presentment of a Disputed Check constituted Chase Bank's entitled-to-enforce warranty to Comerica under UCC 3.417(a)(1); 4.208(a)(1).
- 16. The Disputed Checks were not endorsed as drawn in that each item had an improper, unauthorized, or missing endorsement.
- 17. On information and belief, in each instance the drawer's intended payee did not: a) receive or endorse the item; b) have any interest in the account at

Chase Bank into which the item was deposited; or c) receive the intended amount of proceeds from the check transaction.

18. Chase Bank's transfer and presentment to Comerica of each Disputed Check constituted a breach of Chase Bank's warranty to Comerica under UCC3.417(a)(1) and 4.208(a)(1) and damaged Comerica.

COUNT II (Exhibits 6-10)

- 19. The General Allegations are incorporated by reference into this count.
- 20. This count relates to the items in complaint exhibits 6 through 10.
- 21. In each instance, the check was originally drawn with an authorized signature of the drawer.
- 22. In each instance, under circumstances presently unknown to Comerica and after each check was originally drawn, the original check was altered within the meaning of UCC 3.407(a)(i) in that unauthorized changes were made that purported to modify the obligation of a party to the instrument as follows:

Exhibit 6 (check 6968): the original payee (i.e., America Express) was altered to: Isis Harris

Exhibit 7 (check 2936): the original payee (i.e., Superior Township) was altered to: Upgrade Construction LLC, 163 Monte Verano Ct., San Jose, AA 95116-2659

Exhibit 8 (check 8975): the original payee (i.e., Central Baptist Church) and the original dollar amount (i.e., \$500) were altered to: Tonasha Robinson and \$4,200.00, respectively

- Exhibit 9 (check 4043): the original payee (i.e., Chase) and the original dollar amount (i.e., \$171.26) were altered to: Jia Hao and \$2,800.00, respectively
- Exhibit 10 (check 112): the original payee (i.e., American Express) and the original dollar amount (i.e., \$125.00) were altered to: Aderryne Hubbard and \$1,125.00, respectively
- 23. In each instance, Chase Bank's presentment of the Disputed Check constituted Chase Bank's no-alteration warranty to Comerica under UCC 3.417(a)(2); 4.208(a)(2).
- 24. In each instance, the altered payee was not the drawer's intended payee of the check as originally drawn.
- 25. On information and belief, in each instance the drawer's intended payee did not: a) receive or endorse the altered check; b) have any interest in the account at Chase Bank into which the altered check was deposited; or c) receive the intended proceeds or benefit from the altered check transaction.
- 26. Chase Bank's transfer and presentment of each Disputed Check to Comerica constituted a breach of Chase Bank's no-alteration warranty to Comerica under UCC 3.417(a)(2) and 4.208(a)(2) and damaged Comerica.

RELIEF REQUESTED

Plaintiff Comerica Bank requests entry of a money judgment in its favor against defendant JPMorgan Chase Bank, National Association, in the combined amount of the Disputed Checks, or \$147,985.67, plus interest and compensation for expenses of litigation, including but not limited to attorney fees, and any other damages allowed by law.

Date: August 19, 2024

/s/ David Wells
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dwells@stwlawfirm.com
P47588

/s/ Henry Stancato
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Capture Date:
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Record Type: RT Number:

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Comerica Bank

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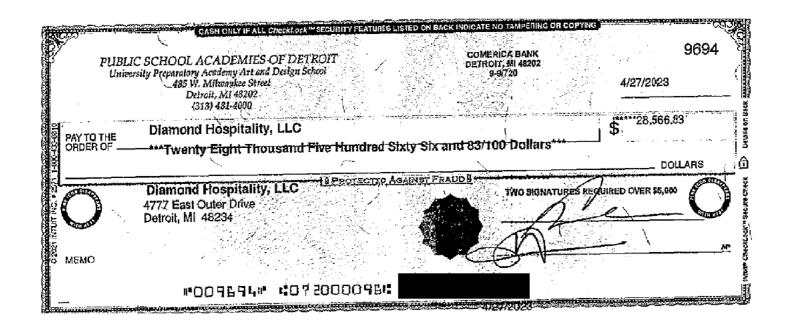
Amount: Record Type:

RT Number:

May 09, 2023 5250128943280 May 09, 2023 970063641 28.566.83

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Phillip For Prosit only



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Current Date: December 27, 2023

Account Number: Capture Date: Item Number: Posted Date:

5250130462284 July 06, 2023 970313596

July 06, 2023

Posted Item Number: Amount:

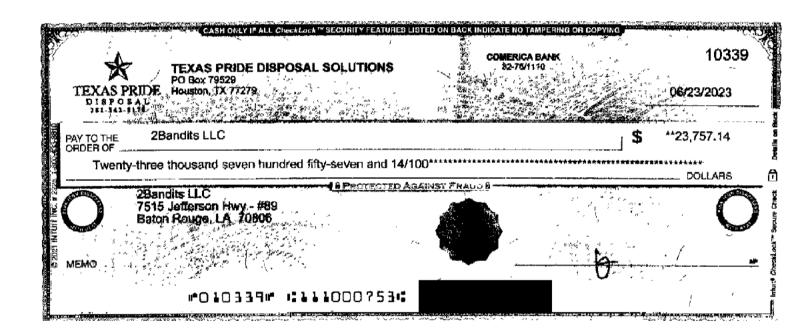
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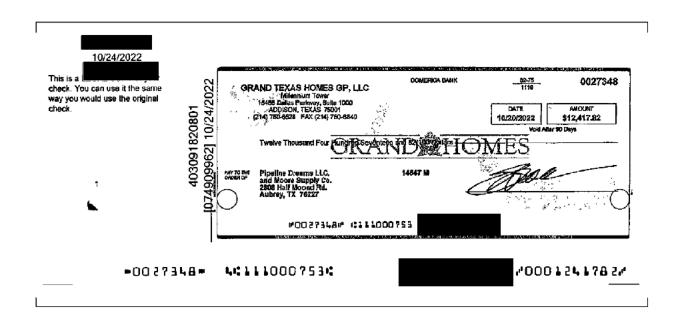
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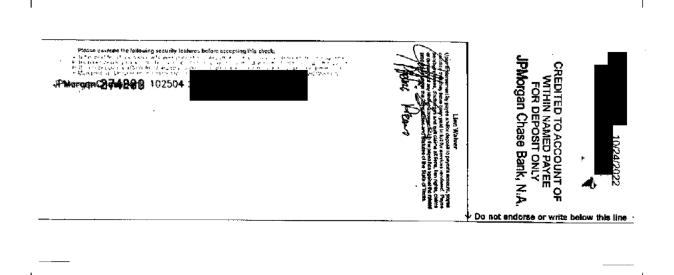
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TEXAS PRIDE DISPOSAL SOLUTIONS LLC PO BOX 79529 **HOUSTON TX 77279**







Posted : 10/25/2022 Bank : 00000002 R/T : 11100075

Account

Check : 27348 Amount : 12417.82 DIN : 970364091

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Account Number: Capture Date: Item Number: Posted Date:

May 22, 2023 5250129722195 May 22, 2023 Posted Item Number: 970752411

Amount:

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March 27, 2023 5250127853914 March 27, 2023

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Posted Item Number: 970159401 22,382.00

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Posted Date:

Debit

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Westridge Mobile Home Park, L.L.C. 28411 Northwestern Highway

Comerica Bank Detroit, MI

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Suite 900

Southfield, MI 48034

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Date: 03/20/2023

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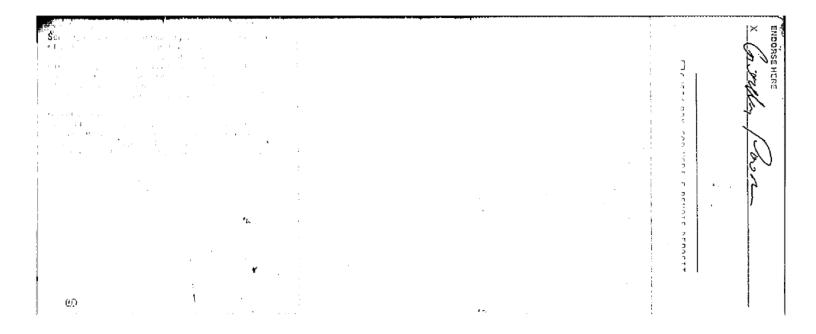
UPGRADE CONSTRUCTION LLC 163 MONTE VERANO CT.

SAN JOSE, CA 95116-2659

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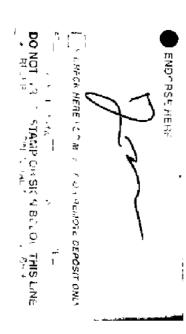
COMERICA BANK
(800) 622-2265

WWW.COMERICA.COM

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Posted Item Number: 970041442 Amount:

Record Type: RT Number:

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